

## § 102.17

## 19 CFR Ch. I (4–1–10 Edition)

in §102.20 or §102.21, or satisfies the other applicable requirements of those sections:

(1) Packaging materials and containers in which a good is packaged for retail sale that are classified with the good;

(2) Accessories, spare parts or tools delivered with the good that are classified with the good and shipped with the good;

(3) Packing materials and containers in which a good is packed for shipment; and

(4) Indirect materials.

(b) [Reserved]

[T.D. 96–48, 61 FR 28956, June 6, 1996]

### § 102.17 Non-qualifying operations.

A foreign material shall not be considered to have undergone an applicable change in tariff classification specified in §102.20 or §102.21 or to have met any other applicable requirements of those sections merely by reason of one or more of the following:

(a) A change in end-use;

(b) Dismantling or disassembly;

(c) Simple packing, repacking or retail packaging without more than minor processing;

(d) Mere dilution with water or another substance that does not materially alter the characteristics of the material; or

(e) Collecting parts that, as collected, are classifiable in the same tariff provision as an assembled good pursuant to General Rule of Interpretation 2(a), without any additional operation other than minor processing.

[T.D. 96–48, 61 FR 28956, June 6, 1996]

### § 102.18 Rules of interpretation.

(a) When General Rule of Interpretation (GRI) 2(a) is referred to in §102.20 as an exception to an allowed change in tariff classification, this means that such change will not be acceptable for purposes of that section if the change results from the assembly of parts into an incomplete or unfinished good which is classifiable in the same manner as a complete or finished good pursuant to GRI 2(a).

(b) (1) For purposes of identifying the material that imparts the essential character to a good under §102.11, the

only materials that shall be taken into consideration are those domestic or foreign materials that are classified in a tariff provision from which a change in tariff classification is not allowed under the §102.20 specific rule or other requirements applicable to the good. For purposes of this paragraph (b)(1):

(i) The materials to be considered must be classified in a tariff provision from which a change in tariff classification is not allowed under the specific rule or other requirements applicable to the good under consideration. For example, in the case of a good classified in HTSUS subheading 8607.11 (the rule for which specifies a change to subheading 8607.11 from any other subheading, except from subheading 8607.12, and except from subheading 8607.19 when that change is pursuant to GRI 2(a)), the only materials that may be considered for purposes of identifying the materials that impart the essential character to the good are those that are classified in subheadings 8607.11, 8607.12 and, if the tariff shift is pursuant to GRI 2(a), 8607.19;

(ii) Materials that may be considered include materials produced by the producer of the good and incorporated in the good. For example, if a producer of a good purchases raw materials and converts those raw materials into a component that is incorporated in the good, that component is a material that may be considered for purposes of identifying the materials that impart the essential character to the good, provided that the component is classified in a tariff provision from which a change in tariff classification is not allowed under the specific rule or other requirements applicable to the good; and

(iii) If there is only one material that is classified in a tariff provision from which a change in tariff classification is not allowed under the §102.20 specific rule or other requirements applicable to the good, then that material will represent the single material that imparts the essential character to the good under §102.11.

(2) For purposes of determining which one of two or more materials described in paragraph (b)(1) of this section imparts the essential character to a good under §102.11, various factors

**U.S. Customs and Border Protection, DHS; Treasury**

**§ 102.20**

may be examined depending upon the type of good involved. These factors include, but are not limited to, the following:

- (i) The nature of each material, such as its bulk, quantity, weight or value; and
- (ii) The role of each material in relation to the use of the good.

[T.D. 96-48, 61 FR 28957, June 6, 1996]

**§ 102.19 NAFTA preference override.**

(a) Except in the case of goods covered by paragraph (b) of this section, if a good which is originating within the meaning of §181.1(q) of this chapter is not determined under §102.11(a) or (b) or §102.21 to be a good of a single NAFTA country, the country of origin of such good is the last NAFTA country in which that good underwent production other than minor processing, provided that a Certificate of Origin (see §181.11 of this chapter) has been completed and signed for the good.

(b) If, under any other provision of this part, the country of origin of a

good which is originating within the meaning of §181.1(q) of this chapter is determined to be the United States and that good has been exported from, and returned to, the United States after having been advanced in value or improved in condition in another NAFTA country, the country of origin of such good for Customs duty purposes is the last NAFTA country in which that good was advanced in value or improved in condition before its return to the United States.

[T.D. 96-48, 61 FR 28957, June 6, 1996]

**§ 102.20 Specific rules by tariff classification.**

The following rules are the rules specified in §102.11(a)(3) and other sections of this part. Where a rule under this section permits a change to a subheading from another subheading of the same heading, the rule will be satisfied only if the change is from a subheading of the same level specified in the rule.

HTSUS	Tariff shift and/or other requirements
<b>(a)</b>	<b>Section I: Chapters 1 through 5</b>
0101-0106 .....	A change to heading 0101 through 0106 from any other chapter.
0201-0209 .....	A change to heading 0201 through 0209 from any other chapter.
0210.11-0210.20 .....	A change to subheading 0210.11 through 0210.20 from any other chapter.
0210.91-0210.99 .....	A change to subheading 0210.91 through 0210.99 from any other chapter; or
	A change to edible meals and flours of subheading 0210.91 through 0210.99 from any product other than edible meals and flours of Chapter 2.
0301-0303 .....	A change to heading 0301 through 0303 from any other chapter.
0304 .....	A change to heading 0304 from any other chapter; or
	A change to fillets of heading 0304 from any other heading.
0305.10 .....	A change to subheading 0305.10 from any other subheading.
0305.20 .....	A change to subheading 0305.20 from any other chapter.
0305.30 .....	A change to subheading 0305.30 from any other subheading, except from fillets of heading 0304.
0305.41-0305.69 .....	A change to subheading 0305.41 through 0305.69 from any other chapter.
0306 .....	A change to heading 0306 from any other chapter.
0307 .....	A change to heading 0307 from any other chapter; or
	A change to edible meals and flours from within Chapter 3.
0401 .....	A change to heading 0401 from any other chapter.
0402.10-0402.29 .....	A change to subheading 0402.10 through 0402.29 from any other chapter.
0402.91-0402.99 .....	A change to subheading 0402.91 through 0402.99 from any other chapter.
0403.10 .....	A change to subheading 0403.10 from any other subheading.
0403.90 .....	A change to subheading 0403.90 from any other chapter; or
	A change to sour cream or kephir from any other product of Chapter 4.
0404 .....	A change to heading 0404 from any other heading.
0405.10 .....	A change to subheading 0405.10 from any other heading.
0405.20 .....	A change to subheading 0405.20 from any other chapter, except from subheading 1901.90; or
	A change to subheading 0405.20 from any other subheading, provided that the good contains no more than 50 percent by weight of milk solids.
0405.90 .....	A change to subheading 0405.90 from any other heading.
0406 .....	A change to heading 0406 from any other heading.
0407-0410 .....	A change to heading 0407 through 0410 from any other chapter.
0501-0511 .....	A change to heading 0501 through 0511 from any other chapter.
<b>(b)</b>	<b>Section II: Chapters 6 through 14</b>